

**United States District Court
Western District of Michigan (Southern Division (1))
CIVIL DOCKET FOR CASE #: 1:18-cv-01156-JTN-ESC**

Varnum LLP v. United States Department of Labor
Assigned to: Judge Janet T. Neff
Referred to: Magistrate Judge Ellen S. Carmody
Cause: 05:552 Freedom of Information Act

Date Filed: 10/09/2018
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

plaintiff

Varnum LLP

represented by **Perrin Rynders**

Varnum Riddering Schmidt & Howlett LLP
(Grand Rapids)
Bridgewater Place
333 Bridge St., NW
P.O. Box 352
Grand Rapids, MI 49501-0352
(616) 336-6734
Fax: (616) 336-7000
Email: prynders@varnumlaw.com
ATTORNEY TO BE NOTICED

Seth B. Arthur

Varnum LLP
333 Bridge St., NW
P.O. Box 352
Grand Rapids, MI 49501
(616) 336-6909
Email: sbarthur@varnumlaw.com
ATTORNEY TO BE NOTICED

Aaron M. Phelps

Varnum Riddering Schmidt & Howlett LLP
(Grand Rapids)
Bridgewater Place
333 Bridge St., NW
P.O. Box 352
Grand Rapids, MI 49501-0352
(616) 336-6257
Email: amphelps@varnumlaw.com
ATTORNEY TO BE NOTICED

V.

defendant

United States Department of Labor

represented by **Carolyn Ann Almassian**

U.S. Attorney (Grand Rapids)
The Law Bldg.
330 Ionia Ave., NW
P.O. Box 208
Grand Rapids, MI 49501-0208
(616) 808-2028
Email: Carolyn.Almassian@usdoj.gov
ATTORNEY TO BE NOTICED

intervenor

**Blue Cross Blue Shield of Michigan Mutual
Insurance Co.**

represented by **Andrew J. Clopton**

Jones Day
150 W Jefferson Ave., Ste. 2100
Detroit, MI 48226
(313) 733-3939
Email: aclopton@jonesday.com
ATTORNEY TO BE NOTICED

Arthur T. O'Reilly

Jones Day
150 W Jefferson Ave., Ste. 2100
Detroit, MI 48226
(313) 230-7925
Email: atoreilly@jonesday.com
ATTORNEY TO BE NOTICED

C. Kevin Marshall

Jones Day (DC)
51 Louisiana Ave., NW
Washington, DC 20001-2113
(202) 879-3851
Email: ckmarshall@jonesday.com
ATTORNEY TO BE NOTICED

Michelle R. Heikka

Blue Cross Blue Shield of Michigan (Detroit)
600 E Lafayette., P.O Box 1925
Detroit, MI 48226
(818) 988-2640
Email: mheikka@bcbsm.com
ATTORNEY TO BE NOTICED

Rebecca D'Arcy O'Reilly

Bodman LLP (Detroit)
6th Fl. at Ford Field
1901 St. Antoine St.
Detroit, MI 48226
Email: roreilly@bodmanlaw.com
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/09/2018	1	COMPLAINT <i>for Declaratory and Injunctive Relief</i> against United States Department of Labor filed by Varnum LLP (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6) (Phelps, Aaron) (Entered: 10/09/2018)
10/09/2018		FILING FEE PAID re 1 by plaintiff Varnum LLP in the amount of \$400, receipt number 0646-4258616 (Phelps, Aaron) (Entered: 10/09/2018)
10/11/2018	2	NOTICE that this case has been assigned Janet T. Neff ; with NOTICE OF DEFICIENCY re corporate disclosure statement (ems) (Entered: 10/11/2018)
10/11/2018		SUMMONS NOT ISSUED as to defendant United States Department of Labor (<i>none provided; please refer to Federal Rule of Civil Procedure 4(i) regarding service on the United States and Its Agencies, Corporations, Officers, or Employees</i>) (ems) (Entered: 10/11/2018)
10/11/2018	3	PROPOSED SUMMONS to be issued re 1 (Phelps, Aaron) (Entered: 10/11/2018)
10/11/2018	4	CORPORATE DISCLOSURE STATEMENT by Varnum LLP (Phelps, Aaron) (Entered: 10/11/2018)
10/12/2018		SUMMONS NOT ISSUED as to defendant United States Department of Labor ; <i>please refer to Federal Rule of Civil Procedure 4(i) regarding service on the United States and Its Agencies, Corporations, Officers, or Employees</i> (pjw) (Entered: 10/12/2018)

10/12/2018	5	PROPOSED SUMMONS to be issued re 1 (Phelps, Aaron) (Entered: 10/12/2018)
10/15/2018	6	SUMMONS ISSUED as to defendant United States Department of Labor, U.S. Attorney and U.S. Attorney General (ems) (Entered: 10/15/2018)
11/15/2018		(NON-DOCUMENT) ATTORNEY APPEARANCE of Carolyn Ann Almassian on behalf of defendant United States Department of Labor (Almassian, Carolyn) (Entered: 11/15/2018)
11/15/2018	7	ANSWER to complaint, 1 with affirmative defenses by United States Department of Labor (Almassian, Carolyn) (Entered: 11/15/2018)
11/15/2018	8	ORDER setting Rule 16 scheduling conference: Rule 16 scheduling conference is set for 1/2/2019 at 11:00 AM at 401 Federal Building, Grand Rapids, MI before Judge Janet T. Neff; joint status report due by 12/26/2018; signed by Judge Janet T. Neff (Judge Janet T. Neff, rmw) (Entered: 11/15/2018)
11/19/2018	9	UNOPPOSED MOTION to intervene intervenor Blue Cross Blue Shield of Michigan Mutual Insurance Co. by intervenor Blue Cross Blue Shield of Michigan Mutual Insurance Co.; (Attachments: # 1 Exhibit 1) (O'Reilly, Arthur) (Entered: 11/19/2018)
11/19/2018	10	BRIEF in support of UNOPPOSED MOTION to intervene intervenor Blue Cross Blue Shield of Michigan Mutual Insurance Co. 9 filed by Blue Cross Blue Shield of Michigan Mutual Insurance Co. (O'Reilly, Arthur) (Entered: 11/19/2018)
11/19/2018	11	CERTIFICATE regarding compliance with LCivR 7.1(d) re UNOPPOSED MOTION to intervene intervenor Blue Cross Blue Shield of Michigan Mutual Insurance Co. 9 filed by Blue Cross Blue Shield of Michigan Mutual Insurance Co. (O'Reilly, Arthur) (Entered: 11/19/2018)
11/20/2018		(NON-DOCUMENT) ATTORNEY APPEARANCE of Andrew J. Clopton on behalf of intervenor Blue Cross Blue Shield of Michigan Mutual Insurance Co. (Clopton, Andrew) (Entered: 11/20/2018)
11/20/2018	12	ORDER granting 9 unopposed motion for intervention; Blue Cross Blue Shield of Michigan Mutual Insurance Company, shall no later than 11/27/2018, file an answer consistent with the proposed answer; signed by Judge Janet T. Neff (Judge Janet T. Neff, rmw) (Entered: 11/20/2018)
11/21/2018	13	REQUEST for pre-motion conference by plaintiff Varnum LLP <i>for Summary Judgment Motion</i> (Phelps, Aaron) (Entered: 11/21/2018)
11/21/2018	14	ANSWER to complaint, 1 with affirmative defenses by Blue Cross Blue Shield of Michigan Mutual Insurance Co. (O'Reilly, Arthur) (Entered: 11/21/2018)
11/21/2018		(NON-DOCUMENT) ATTORNEY APPEARANCE of C. Kevin Marshall on behalf of intervenor Blue Cross Blue Shield of Michigan Mutual Insurance Co. (Marshall, C.) (Entered: 11/21/2018)
11/26/2018		(NON-DOCUMENT) ATTORNEY APPEARANCE of Rebecca D'Arcy O'Reilly on behalf of intervenor Blue Cross Blue Shield of Michigan Mutual Insurance Co. (O'Reilly, Rebecca) (Entered: 11/26/2018)
11/27/2018	15	RESPONSE TO REQUEST for pre-motion conference by plaintiff Varnum LLP <i>for Summary Judgment Motion</i> 13 and Defendant United States Department of Labor's Pre-Motion Conference Request and Response to Plaintiff's Pre-Motion Conference Request; filed by United States Department of Labor (Almassian, Carolyn) Modified text on 11/29/2018 (ems). (Entered: 11/27/2018)
11/28/2018	16	RESPONSE TO REQUEST for pre-motion conference by plaintiff Varnum LLP <i>for Summary Judgment Motion</i> 13 ; filed by Blue Cross Blue Shield of Michigan Mutual Insurance Co. (O'Reilly, Arthur) (Entered: 11/28/2018)
12/04/2018	17	ORDER scheduling a pre-motion conference regarding document number 13 : pre-motion conference is set for 1/9/2019 at 02:30 PM at 401 Federal Building, Grand Rapids, MI before Judge Janet T. Neff; signed by Judge Janet T. Neff (Judge Janet T. Neff, rmw) (Entered: 12/04/2018)
12/04/2018	18	ORDER rescheduling Rule 16 conference: Rule 16 scheduling conference rescheduled to 1/9/2019 at 02:30 PM at 401 Federal Building, Grand Rapids, MI before Judge Janet T. Neff; joint status report due by 1/2/2019; signed by Judge Janet T. Neff (Judge Janet T. Neff, rmw) (Entered: 12/04/2018)
12/04/2018	19	RESPONSE TO 15 <i>United States Department of Labor's Pre-Motion Conference Request</i> filed by intervenor Blue Cross Blue Shield of Michigan Mutual Insurance Co. (O'Reilly, Arthur) (Entered: 12/04/2018)
12/13/2018	20	REQUEST for pre-motion conference by intervenor Blue Cross Blue Shield of Michigan Mutual Insurance Co. <i>for Summary Judgment Motion</i> (O'Reilly, Arthur) (Entered: 12/13/2018)

12/14/2018	21	RESPONSE TO REQUEST for pre-motion conference by intervenor Blue Cross Blue Shield of Michigan Mutual Insurance Co. <i>for Summary Judgment Motion 20 and Department of Labor Pre-Motion Conference Request 15</i> ; filed by Varnum LLP (Phelps, Aaron) Modified text on 12/14/2018 (ems). (Entered: 12/14/2018)
12/17/2018	22	ORDER scheduling a pre-motion conference regarding document number 20 : pre-motion conference is set for 1/9/2019 at 02:30 PM at 401 Federal Building, Grand Rapids, MI before Judge Janet T. Neff; signed by Judge Janet T. Neff (Judge Janet T. Neff, rmw) (Entered: 12/17/2018)
01/02/2019	23	JOINT STATUS REPORT (Phelps, Aaron) (Entered: 01/02/2019)
01/09/2019	24	MOTION to stay by defendant United States Department of Labor; (Almassian, Carolyn) (Entered: 01/09/2019)
01/09/2019	25	CERTIFICATE regarding compliance with LCivR 7.1(d) re MOTION to stay 24 filed by United States Department of Labor (Almassian, Carolyn) (Entered: 01/09/2019)
01/09/2019	26	ORDER granting to an extent 24 motion to stay; notice cancelling today's proceedings to issue; signed by Judge Janet T. Neff (Judge Janet T. Neff, rmw) (Entered: 01/09/2019)
01/09/2019	27	NOTICE cancelling today's Rule 16 scheduling conference (Judge Janet T. Neff, rmw) (Entered: 01/09/2019)
01/09/2019	28	NOTICE cancelling today's pre-motion conference (Judge Janet T. Neff, rmw) (Entered: 01/09/2019)
02/01/2019	29	UNOPPOSED MOTION for order <i>To Lift Stay</i> by defendant United States Department of Labor; (Attachments: # 1 Proposed Order to Lift Stay) (Almassian, Carolyn) Modified text on 2/4/2019 (ems). (Entered: 02/01/2019)
02/01/2019	30	CERTIFICATE regarding compliance with LCivR 7.1(d) re UNOPPOSED MOTION for order <i>To Lift Stay</i> 29 filed by United States Department of Labor (Almassian, Carolyn) Modified text on 2/4/2019 (ems). (Entered: 02/01/2019)
02/20/2019	31	ORDER granting 29 motion to lift stay; signed by Judge Janet T. Neff (Judge Janet T. Neff, rmw) (Entered: 02/20/2019)
02/20/2019	32	MOTION to stay <i>proceedings</i> by intervenor Blue Cross Blue Shield of Michigan Mutual Insurance Co.; (Attachments: # 1 Exhibit A) (Marshall, C.) (Entered: 02/20/2019)
02/20/2019	33	BRIEF in support of MOTION to stay <i>proceedings</i> 32 filed by Blue Cross Blue Shield of Michigan Mutual Insurance Co. (Marshall, C.) (Entered: 02/20/2019)
02/20/2019	34	CERTIFICATE regarding compliance with LCivR 7.1(d) re MOTION to stay <i>proceedings</i> 32 filed by Blue Cross Blue Shield of Michigan Mutual Insurance Co. (Marshall, C.) (Entered: 02/20/2019)
03/01/2019	35	NOTICE re 32 of <i>Supplemental Authority</i> by intervenor Blue Cross Blue Shield of Michigan Mutual Insurance Co. (Attachments: # 1 Exhibit A) (Marshall, C.) (Entered: 03/01/2019)
03/06/2019	36	RESPONSE TO MOTION to stay <i>proceedings</i> 32 filed by Varnum LLP (Attachments: # 1 Exhibit A - Settlement Agreement with BCBSM, # 2 Exhibit B - Stipulated Protective Order, # 3 Exhibit C - Trial Exhibits 524-527, # 4 Exhibit D - Forms 5500, # 5 Exhibit E - Information re Form 5500 Series, # 6 Exhibit F - Search, # 7 Exhibit G - FreeERISA Benefits website) (Phelps, Aaron) (Entered: 03/06/2019)
03/12/2019	37	UNOPPOSED MOTION for leave to file <i>reply in support of motion to stay proceedings</i> 32 by intervenor Blue Cross Blue Shield of Michigan Mutual Insurance Co.; (Attachments: # 1 Exhibit A (Proposed Reply)) (Marshall, C.) (Entered: 03/12/2019)
03/12/2019	38	CERTIFICATE regarding compliance with LCivR 7.1(d) re UNOPPOSED MOTION for leave to file <i>reply in support of motion to stay proceedings</i> 32 37 filed by Blue Cross Blue Shield of Michigan Mutual Insurance Co. (Marshall, C.) (Entered: 03/12/2019)
03/13/2019	39	ORDER denying 32 motion to stay; granting 37 motion for leave to file; signed by Judge Janet T. Neff (Judge Janet T. Neff, clb) (Entered: 03/13/2019)
03/13/2019	40	REPLY to response to motion 32 (<i>as filed per Order 39</i>) filed by Blue Cross Blue Shield of Michigan Mutual Insurance Co. (ems) (Entered: 03/13/2019)
03/14/2019	41	ORDER scheduling a pre-motion conference regarding document numbers 13 , 20 : pre-motion conference is set for 4/26/2019 at 01:30 PM at 401 Federal Building, Grand Rapids, MI before Judge Janet T. Neff; signed by Judge Janet T. Neff (Judge Janet T. Neff, rmw) (Entered: 03/14/2019)

04/26/2019	42	MINUTES of pre-motion conference re 13 , 20 held before Judge Janet T. Neff (Court Reporter: Paul Brandell) (Judge Janet T. Neff, rmw) (Entered: 04/26/2019)
04/26/2019		(NON-DOCUMENT) ATTORNEY APPEARANCE of Perrin Rynders on behalf of plaintiff Varnum LLP (Rynders, Perrin) (Entered: 04/26/2019)
04/26/2019		(NON-DOCUMENT) ATTORNEY APPEARANCE of Seth B. Arthur on behalf of plaintiff Varnum LLP (Arthur, Seth) (Entered: 04/26/2019)
04/26/2019	43	PRE-MOTION CONFERENCE ORDER setting forth the briefing schedule re anticipated motions for summary judgment; signed by Judge Janet T. Neff (Judge Janet T. Neff, clb) (Entered: 04/26/2019)
04/29/2019		(NON-DOCUMENT) ATTORNEY APPEARANCE of Michelle R. Heikka on behalf of intervenor Blue Cross Blue Shield of Michigan Mutual Insurance Co. (Heikka, Michelle) (Entered: 04/29/2019)
05/24/2019	44	NOTICE re 43 <i>Proof of Delivery</i> by intervenor Blue Cross Blue Shield of Michigan Mutual Insurance Co. (Attachments: # 1 Exhibit A (Cover Letter), # 2 Exhibit B (Proof of Delivery)) (Marshall, C.) (Entered: 05/24/2019)
07/22/2019	45	PROOF OF SERVICE by plaintiff Varnum LLP for Joint Statement of Facts, Plaintiff's Motion for Summary Judgment, Brief in Support of Plaintiff's Motion for Summary Judgment, and Exhibits (Arthur, Seth) (Entered: 07/22/2019)
08/19/2019	46	CERTIFICATE OF SERVICE by defendant United States Department of Labor for Defendant's Response to Motion For Summary Judgment and Memorandum In Support of Cross Motion For Summary Judgment (Almassian, Carolyn) (Entered: 08/19/2019)
08/19/2019	47	CERTIFICATE OF SERVICE by intervenor Blue Cross Blue Shield of Michigan Mutual Insurance Co. for BCBSM's Cross-Motion for Summary Judgment, Brief in Support thereof and in Opposition to Varnum's Motion for Summary Judgment, and Declaration (Marshall, C.) (Entered: 08/19/2019)